IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5347 of 2003
And
SPECIAL CIVIL APPLIATION Nos.5377, 5091, 5436 to 5440, 5427 to 5433 of 2003.

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANJULABEN HIMMATLAL PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5347 of 2003
MR PINAKIN M RAVAL for Petitioner No. 1-7
MR KOGJE, AGP for Respondent No.1
NOTICE SERVED BY DS for Respondent No. 1-3,5,7-9
MR HS MUNSHAW for Respondent No. 4
MR PK JANI for Respondent No. 6

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/05/2003

ORAL JUDGEMENT

#. Since a common question is involved in these petitions, all these petitions are disposed of by this common order.

#. By filing these petitions, it is prayed by the petitioners that it may be held that they are eligible for getting appointment on the post of Vidhya Sahayak (Art Teacher Diploma). It is not in dispute that all these petitioners have completed their Art Teacher Diploma Course from the institution, which has already applied for recognition by filing appropriate application before the National Council for Teacher Education, Bhopal ("NCTE" for short). Mr.P.K.Jani, who is appearing for the said institution has stated that all the institutions, from which the petitioners have undertaken the course, have applied for recognition and the same is pending with the NCTE. In view of this position, these matters are required to be disposed of on the line of the order passed by this Court in Special Civil Application No.7405 of 2002 and other group of matters decided on 27th November, 2002. In the aforesaid group of matters, a learned Single Judge of this Court (Coram: Miss R.M.Doshit,J) has observed as under.:

"..... ....

In the present case, it is not disputed that except the above four institutions, none of the institutions where petitioners have received education in Art Teacher's Diploma had applied for recognition by the Council within six months from the appointed day, as envisaged under proviso to sub-section (1) of Section 14 of the Act. It is admitted that the applications for recognition made by the above four institutions are still pending for consideration by the Regional Committee of the Council and are not yet disposed of. Hence, the said four institutions are entitled to continue to offer the course in Art Teacher's Diploma though they have yet not been recognised by the Council. Such of the petitioners who have obtained qualification by pursuing the course offered by the said four institutions shall be held to be qualified for appointment under the concerned District Primary Education Committee. The rest of the petitioners

who have obtained qualification by pursuing the course offered by the Institutions which did not apply for recognition by the Council within six months from the appointed day, as envisaged under Section 14(1) of the Act shall not be considered to be qualified for appointment under the concerned District Primary Education Committee.

Both the learned advocates, Mrs.Mehta & Mr.Patel have submitted that admission to the Art Teacher's college in the State of Gujarat is made by the State of Gujarat through a common admission procedure. The petitioners had been granted admission to the concerned institutions through such common admission procedure on recommendation made by the State Government. After successfully pursuing the course, the Diploma is conferred by the State Examination Board. Hence, the respondent - District Education Committees should be estopped from holding that the qualification obtained by the petitioners is not a valid qualification for appointment under the District Primary Education Committees. It appears that all the institutions in which the petitioners took training in Art Teacher's Diploma are recognised by the State of Gujarat and the admission to the said institutions are made through the common admission procedure. However, it is a statutory requirement that all such institutions shall be recongnised by the National Council for Teacher Education. Unless they are so recognised, the qualification obtained by pursuing the course offered by them cannot be held to be a valid qualification, as discussed hereinabove. It is well settled law that there cannot be estoppel against the Statute. Hence, the contention requires to be rejected.

It is admitted that all the petitioners, except the petitioners nos.8, 25 and 30 in Special Civil Application No.7405 of 2002, have acquired the qualification of Art Teacher's Diploma by pursuing such course offered by one of the aforesaid four institutions. It is, therefore, held that all the petitioners except petitioners nos.8, 25 & 30 in Special Civil Application No.7405 of 2002 possess a valid qualification in Art Teacher's Diploma and are entitled to be considered for appointment under the concerned District Primary Education

Committee. The qualification obtained by the petitioners nos.8, 25 & 30 in Special Civil Application No.7405 of 2002 is not a valid qualification and the said petitioners are not entitled to be considered for appointment under the concerned District Primary Education Committee.

It is also admitted that both the petitioners in Special Civil Application No.7756 of 2002 have acquired Art Teacher's Diploma by pursuing the course offered by one of the above referred four institutions. Hence, it is held that both these petitioners hold a valid qualification in Art Teacher's Diploma and are entitled to be considered for appointment under the concerned District Primary Education Committee.

In Special Civil Application No.10946 of 2002, it is admitted that petitioners nos.1 and 3 have received training in Art Teacher's Diploma in one of the above-referred four institutions. The institutions where the petitioner No.2 has received training had not applied for recognition within six months as envisaged under Section 14(1) of the Act. In that view of the matter, the petitioners Nos.1 & 3 can be said to have valid qualification for appointment under the concerned District Primary Education Committee. It is, therefore, declared that the petitioners nos.1 and 3 are eligible for being considered for appointment under the concerned District Primary Education Committee. The petitioner no.2 does not possess a valid qualification and is not entitled for being considered for appointment under any District Education Committee.

All these three petitions are disposed of in the above terms. Notice issued in each of the petitions is discharged. There shall be no order as to costs. Registry shall maintain copy of this order in each of these petitions.

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#. In view of this position, since it is not in dispute that the institutions, through which the petitioners have completed the training of Art Teacher's Diploma Course, have applied for recognition, these matters are disposed of on the same line by which earlier petitions have been

disposed of. Accordingly, all these petitions are partly allowed. It is held that the petitioners are eligible for being considered for appointment under the concerned District Primary Education Committee. Rule is made absolute accordingly. Registry to keep copy of this order in all connected matters.

(P.B.Majmudar,J)
(pathan)